

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 10-16-69672
HUD# 07-17-5293-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

915 HARLOCKE LAND, LLC

2162 Sugar Bottom Road NE
Solon, Iowa 52333-9594

KEVIN KIDWELL

2162 Sugar Bottom Road NE
Solon, Iowa 52333-9594

MICHAEL UNTRAUER

Untrauer Drafting Service, Inc.
2878 Sterling Drive
Iowa City, Iowa 52240-3045

UNTRAUER DRAFTING SERVICE, INC.

2878 Sterling Drive
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BRIAN SCHUMACHER

Apex Structural Engineers and Designers
383 Collins Road NE Suite 202
Cedar Rapids, Iowa 52402-3147

APEX STRUCTURAL ENGINEERS AND DESIGNERS

383 Collins Road NE Suite 202
Cedar Rapids, Iowa 52402-3147

COMPLAINANT

ANGELA JACKSON

Commissioner, Iowa Civil Rights Commission
400 East 14th Street
Des Moines, Iowa 50319

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street
Des Moines, Iowa 50319

Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). As a member, Complainant has the authority to file a complaint alleging a discriminatory practice in violation of the “Iowa Civil Rights Act of 1965,” Iowa Code Chapter 216. Complainant alleged Respondents designed and constructed covered multifamily dwellings in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated the “accessible route into and through the covered unit,” “light switches, electrical outlets, thermostats, and other environmental controls in accessible locations” and the “usable kitchens and bathrooms” requirements.¹

Complainant specifically alleged, in Unit 2, 915 Harlocke Street [“Harlocke”], five features within one of the covered units appeared inaccessible to a person utilizing a wheelchair for mobility – (1) the change in level from the unit’s interior finished floor surface to the top of the threshold to the deck was measured at $\frac{5}{8}$ inches, which exceeds the maximum allowable threshold of $\frac{1}{4}$ -inch without 1:2 beveling, which appeared to the tester to be lacking; (2) except for the kitchen and the bathroom, the midline of the lower electrical outlet at the receptacles throughout the unit were located $14\frac{1}{8}$ inches above the finished floor, which is less than the 15-inch minimum allowed height for electrical outlets; (3) the clearance from the midline of the kitchen sink to the nearest obstruction (an adjacent cabinet) was measured at 16 inches, which is less than the 24-inch clearance required for a parallel approach needed because the cabinet below the sink as observed by the tester was not easily removable; and (4) the clearance from the midline of the sink to the wall was measured at $21\frac{1}{4}$ inches in one bathroom and $21\frac{3}{4}$ inches in the other bathroom, which is less than the 24-inch clearance required for a parallel approach needed because the cabinet below the sink as observed by the tester was not easily removable; and (5) in one of the bathrooms, the clear floor space outside swing of door was less than the 30 by 48-inch minimum required, as indicated by the door overlapping the 30 by 48-inch drop cloth by $6\frac{7}{8}$ inches.

Description of the Subject Property

Subject Property

Harlocke consists of a residential-unit building located at 915 Harlocke Street. All of the dwelling-unit buildings and common areas are required to meet the accessibility requirements of the ICRA and FHA.

The building was issued a Certificate of Occupancy on June 27, 2016, signed by Douglas Boothroy, Building Official for the City of Iowa City.

The 24 units have been divided by Respondents into five separate groups based on their floorplan configurations.²

¹ See Iowa Code §§216.8A(3)(c)(3)(c)(i) [Requirement 4 – Accessible Route into and Through the Covered Unit]; 216.8A(3)(c)(3)(c)(ii) [Requirement 5 – Light Switches, Electrical Outlets, Thermostats, And Other Environmental Controls In Accessible Locations]; and 216.8A(3)(c)(3)(c)(iv) [Requirement 7 – Usable Kitchens and Bathrooms].

² See Appendix B for floor plans.

The table below identifies each unit by group and unit number. It also provides the total number of units by group and floor level.

Group Number	Unit Numbers	Inspected Unit Numbers	Total Units Per Group	Total Units Per Floor	
				1 st	2 nd
1 [2BR/2 ½ BA]	1, 2, 11, 12, 13, 14, 23, 24	2	8	4	4
2 [1BR/1 ½ BA]	3, 15	3	2	1	1
3 [2BR/2 ½ BA]	4, 5, 6, 8, 9, 16, 17, 18, 20, 21	4, 5	10	5	5
4 [2BR/2 ½ BA]	7, 19	7	2	1	1
5 [2BR/2 ½ BA]	10, 22	10	2	1	1
Total Units			24	12	12

The scope of the current agreement includes all of the dwelling units and the public and common use areas, including the underground parking garage, extended sidewalk ramp, waste containers, and the wall-mounted mailboxes adjacent to the east exterior entrance.

Respondents' Defenses:

When asked in the questionnaire what was true or false about the allegations, all Respondents answered:

It is disputed that the cabinets in the bathrooms in Unit 2 are not removable.
The threshold height in Unit 2 is above ¼" without 1:2 beveling.
The lower electrical outlet in the living room in Unit 2 is below 15 inches.

On November 30, 2016, Respondents amended their answer to also include kitchens in the first sentence of their answer to the above-referenced question. The amended version of that first sentence reads:

It is disputed that the cabinets in the bathrooms **and kitchen** in Unit 2 are not removable.

Report of Preliminary Findings:

After conducting an onsite inspection of all five units; and the public/common use areas, ICRC Investigators found and reported the following deficiencies:

- 1) The step along the path to the waste dumpsters is an obstruction preventing residents who use wheelchairs from disposing of their trash, in violation of the Manual and Section 402 of the ANSI 2003.³

³ See Appendix A, Photo 1A.

- 2) The height of the slit in the rent drop box was measured at 60 inches.⁴ This height is greater than the 48-inch maximum per ANSI 2003.
- 3) In Units 4 and 5, the clear opening width at the sliding glass doorway was measured at 28 $\frac{3}{4}$ inches with the bumper installed and 30 $\frac{1}{2}$ inches with the bumper removed, which is less than the 31 $\frac{3}{4}$ -inch minimum required by ANSI 2003.⁵ The sliding glass doorways in the inspected dwelling units are too narrow, rendering them unusable by persons using wheelchairs.
- 4) In Units 2, 3, and 10, the interior threshold heights at the sliding glass doorways were measured at no less than $\frac{3}{4}$ -inch, which exceeds the $\frac{1}{4}$ -inch maximum allowed for thresholds without beveling.⁶ These thresholds are too high, rendering them unusable by persons using wheelchairs.
- 5) The route connecting the interior area near the accessible front door with the usable kitchen was designed to be about 108 inches long by 37 inches wide. However, ICRC investigators measured the length of this route at 112 inches by 35 $\frac{7}{16}$ inches wide, which is too narrow by $\frac{9}{16}$ -inch.⁷ The effect of the insufficient width is exacerbated for residents using wheelchairs by the 112-inch length of the route, which significantly exceeds the 24-inch maximum length for routes that are 32 to 36 inches wide.
- 6) The height of the midline of bottom electrical outlets of the receptacle in each living room, dining room, and bedroom of all inspected units ranged from 13 $\frac{1}{2}$ to 14 $\frac{1}{2}$ inches.⁸ The measured heights render these electrical outlets unusable by residents who utilize wheelchairs.
- 7) The midlines of the kitchen sinks were found to be less than 24 inches from the opposing countertop in three of the units. The table below indicates the unit numbers, group numbers, and the distance from the midline of the sink to the opposing countertop in inches.⁹

Unit Number	Group Number	Midline of Sink To Opposing Countertop
2	1	16 $\frac{1}{2}$ "
3	2	18"
5	3	16 $\frac{1}{2}$ "

- 8) The midlines of the kitchen ranges were found to be no less than 17 inches from the opposing countertop in three units, which is less than the 24 inch-minimum required. The table below indicates the unit numbers, group numbers, and the distance from the midline of the sink to the opposing countertop in inches.¹⁰

⁴ See Appendix A, Photo 2A.

⁵ See Appendix A, Photos 3A and 3B.

⁶ See Appendix A, Photo 4A.

⁷ See Appendix A, Photos 5A and 5B.

⁸ See Appendix A, Photo 6A.

⁹ See Appendix A, Photo 7A.

¹⁰ See Appendix A, Photos 8A, 8B, and 8C.

Unit Number	Group Number	Midline of Range To Opposing Countertop
5	3	17 ¼"
7	4	17"
10	5	17"

The ranges in these units are too close to the opposing countertop, which render these kitchens unusable by residents who utilize wheelchairs.

9) Both the Manual and ANSI 2003 require the width of the route in all kitchens to be a minimum of 40 inches. The width of the path between the island and the opposing counter was measured at 37 ½ inches.¹¹ This kitchen is too narrow, rendering it unusable by persons using wheelchairs.¹²

10) The distance from the midline of the bathroom sink to the nearest obstruction was measured by ICRC investigators in the inspected units. The midlines of the sinks in the bathrooms of five units were measured to be less than the 24-inch minimum clearance from the closest obstruction, as indicated in the table below.¹³

Unit Number	Group Number	Bathroom [Master / Non-Master]	Midline to Closest Obstruction [Inches]
2	1	Master	21 ½
		Non-Master	21 ½
4	3	Master	21 ¼
		Non-Master	21 ¼
5	3	Master	21 ½
		Non-Master	21 ¼
7	4	Master	21 ½ ¹⁴
		Non-Master	18 ¾
10	5	Non-Master	21 ¼

11) The clear floor space outside of the swing of the door was measured at less than 30 by 48 inches in the master bathrooms of Units 2, 4, 5, and 10, as indicated by the door overlapping the 30 by 48-inch drop cloth by $\geq 6 \frac{7}{8}$ inches and ≤ 14 inches.¹⁵ The clear floor space in these bathrooms is less than the minimum required by the Guidelines and ANSI 2003, and renders this bathroom unusable for persons who utilize wheelchairs.

12) According to the reach requirements from ANSI 2003, the maximum high reach for a forward and parallel approach without obstructions is 48 inches. If there are obstructions with a reach depth of greater than 10 inches but no greater than 24 inches, the high-reach maximum height is 44 inches for a forward approach and 46 inches for a parallel approach. The height of

¹¹ See Appendix A, Photos 5A and 5B.

¹² See Appendix A, Photo 9A.

¹³ See Appendix A, Photo 10A.

¹⁴ Estimation based on plan for unit. Bathroom could not be inspected due to resident sleeping in the bedroom adjacent to the bathroom at the time this unit was inspected.

¹⁵ See Appendix A, Photos 11A and 11B.

the bathroom towel bars located directly above toilets with a depth greater than 20 inches, was measured at no less than 50 ¼ inches in all of the units.¹⁶

Respondents' Response to Report of Preliminary Findings:

Respondents submitted the following responses to the reported deficiencies:

- 1) Respondents will provide waste containers in the underground parking area to provide a comparable means for tenants with mobility impairments to dispose of their trash, which does not include a step, as is the case with the current path to the waste dumpster.
- 2) Respondents will lower the rent drop box such that the height of the slit will not exceed the 48-inch maximum allowed.
- 3) Respondents will work with the door supplier to provide a solution to create a clear opening width at the sliding glass doorways of Units 4 and 5 that is no less than the 31 ¾-inch minimum required.
- 4) Respondents will either provide a new threshold with a height that does not exceed the ¼-inch maximum threshold height or a ramp at the sliding glass doorways of Units 2, 3, and 10 with a running slope that does not exceed 8.33%.
- 5) Respondents will reinstall the ¼-inch plywood at the interior hallway adjacent to the front door of Unit 3 to increase the clear width no less than 36 inches.
- 6) Respondents will replace all of the non-complying dual electrical-outlet receptacles with single electrical-outlet receptacles in the leaving room, dining room, and bedrooms of every unit.
- 7) Respondents will provide photographs of each step, with a narrative description of the entire process, documenting the amount of time required to complete each step, to demonstrate a) the drywall and flooring surfaces under the kitchen sinks and b) proof that the cabinets are easily removable.
- 8) Respondents will move the small cabinet adjacent to the range, and then move the range further away from the nearest obstruction to increase the distance from the midline of the range to the closest obstruction to no less than the 24 inch minimum required whenever a tenant with a mobility impairment in Units 5, 7 and 10 makes a reasonable modification request.
- 9) Respondents will move the countertop further away from the opposing countertop and appliances in the kitchen of Unit 10 to increase the clear width of the path to no less than the 40-inch minimum required.

¹⁶ See Appendix A, Photo12A.

10) Respondents will submit the same kind of evidence as described in paragraph number “7)” above as proof that the cabinets in bathrooms of Units 2, 4, 5, 7, and 10 are removable.

11) Respondents will remove the door to the master bathroom in Units 2, 4, 5, and 10, to increase the clear floor space outside the swing of door to no less than the 30 by 48-inch minimum required.

12) Respondents will install an additional towel bar in the bathrooms where the towel bar above the toilet has a height exceeding the 46-inch maximum height allowed.

Assessment of Proposed Retrofits:

Respondents stated all units were built in accordance with the scoping requirements of the 2012 International Building Code [IBC 2012], which incorporates the standards of the 2009 American National Standards [ANSI 2009] for guidance on the technical requirements [i.e., the dimension requirements]. Neither the IBC 2012 nor the ANSI 2009 is one of the safe harbors accepted by HUD.¹⁷

Respondents maintain the Fair Housing Act Design Manual (“Manual”)¹⁸ allows other standards, including ANSI 2009, to be considered as an acceptable standard for meeting the accessibility requirements of the FHA. While HUD does allow for other standards to be followed, it is only as long as they meet the minimum requirements from the Guidelines, which are further expounded in the Manual.¹⁹ Therefore, the Manual, which incorporates ANSI 1986 for some of the technical requirements, must be used to assess and determine compliance with the ICRA and FHA, not IBC 2012 or ANSI 2009. Respondents do not concur with this interpretation; however, as expressed herein below, agree to methods of modification or retrofit of items described in the agreement.

The public areas must meet the requirements of the ADA in addition to those of the FHA, as people other than tenants or tenants’ visitors will visit or frequent those areas. The common use areas, however, such as parking spaces, mailboxes, and dumpsters, are governed by the FHA since they are only for use by the tenants of the subject property. The ADA will only be referenced in the current agreement for the public areas, which include the parking lot, sidewalks, and interior hallways.²⁰ Finally, the requirements of the ADA will be presented as stated in the “2010 American with Disabilities Act Standards: 2004 ADAAG for Titles II and III Facilities” (ADAAG). *See* 42 U.S.C. 12204, Part 1191, Appendix A, and 42 U.S.C 12186(b); 28 CFR Part 36, Appendix B.

¹⁷ <http://www.fairhousingfirst.org/faq/safeharbors.html> (Last visited on March 28, 2014).

¹⁸ *See* Fair Housing Act Design Manual (“Manual”) online, <https://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf> (Last visited March 9, 2017).

¹⁹ Joint Statement of The Department of Housing and Urban Development and the Department of Justice: *Accessibility (Design and Construction) Requirements For Covered Multifamily Dwelling Under The Fair Housing Act*, U.S. Department of Housing and Urban Development (last updated April 13, 2013); Q&A Item #39.

²⁰ The ADAAG defines “Public Use” as “[I]nterior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.” *See* “Definitions” on page 47 of ADAAG available online at http://www.ada.gov/regs2010/2010ADAStandards/2010ADAStandards_prt.pdf. Therefore, since the interior hallways and parking spaces are available for use by prospective tenants, who are part of the general public, these areas are deemed to be “Public Use.”

Following is the assessment of Respondents' proposed retrofits, based on the scoping and technical requirements of the 2010 ADAAG, ANSI 2003, and the Manual:

- 1) ICRC concurs with Respondents' proposal to provide waste containers in the underground parking area to provide a comparable means for tenants with mobility impairments to dispose of their trash, which does not include a step, as is the case with the current path to the waste dumpster.
- 2) ICRC concurs with Respondents' proposal to lower the rent drop box such that the height of the slit will not exceed the 48-inch maximum allowed.
- 3) ICRC concurs with Respondents' proposal to work with the door supplier to provide a solution to create a clear opening width at the sliding glass doorways that is no less than the 31 $\frac{3}{4}$ -inch minimum required. However, ICRC will require Respondents to specify the particulars of this retrofit within a specific time.
- 4) ICRC concurs with Respondents' proposal to either provide a new threshold with a height that does not exceed the $\frac{1}{4}$ -inch maximum threshold height or a ramp at the sliding glass doorways with a running slope that does not exceed 8.33%.
- 5) ICRC concurs with Respondents' proposal to reinstall the $\frac{1}{4}$ -inch plywood at the interior hallway adjacent to the front door to increase the clear width to no less than 36 inches.
- 6) ICRC concurs with Respondents' proposal to replace the non-conforming dual electrical-outlet receptacles with single electrical-outlet receptacles in the living room, dining room, and bedrooms of every unit.
- 7) ICRC concurs with Respondents' proposal to provide photographs of each step, with a narrative description of the entire process, documenting the amount of time required to complete each step, to demonstrate a) the drywall and flooring surfaces under the kitchen sinks and b) proof that the cabinets are easily removable.
- 8) ICRC concurs with Respondents' proposal to move the countertop further away from the opposing countertop and appliances to increase the clear width of the path in the kitchen to no less than the 40-inch minimum required.
- 9) ICRC concurs with Respondents' proposal to submit the same kind of evidence as described in paragraph number "7)" above as proof that the cabinets in the bathrooms of are removable.
- 10) ICRC concurs with Respondents' proposal to remove the door to the master bathroom in Units 2, 4, 5, and 10, to increase the clear floor space outside the swing of door to no less than the 30 by 48-inch minimum required.
- 11) ICRC concurs with Respondents' proposal to install an additional towel bar in the bathrooms where the towel bar above the toilet has a height exceeding the 46-inch maximum height allowed.

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

- 1) For purposes of this agreement, when used in this agreement, “Respondents” shall mean 915 Harlocke Land, LLC; Kevin Kidwell; Michael Untrauer; Untrauer Drafting Service, Inc.; Brian Schumacher; and Apex Structural, Engineers and Designers, collectively.
- 2) “Owners”, when used in this agreement, shall mean 915 Harlocke Land, LLC; and Kevin Kidwell, collectively.
- 3) “Designers”, when used in this agreement, shall mean Michael Untrauer; Untrauer Drafting Service, Inc.; Brian Schumacher; and Apex Structural, Engineers and Designers, collectively.
- 4) Respondents agree to comply with Iowa Code §216.11 (2) that provides: It shall be an unfair or discriminatory practice for any person to discriminate or retaliate against another person in any of the rights protected against discrimination by this chapter because such person has lawfully opposed any practice forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified or assisted in any proceeding under this chapter.
- 5) Respondents acknowledge the ICRA makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status. Iowa Code § 216.8(1)(b).
- 6) Respondents acknowledge the ICRA makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person. Iowa Code § 216.8(1)(a).
- 7) Respondents acknowledge the Fair Housing Act (FHA) makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the of race, color, religion, sex, familial status, or national origin. 42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act).
- 8) Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling and to the

extent that the accommodation does not cause undue financial or administrative burden or fundamentally alter the nature of the provider's operations. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).

9) Respondents acknowledge the FHA and ICRA make it unlawful to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability. 42 U.S.C. 3604(f)(2)(a) (§ 804(f)(2)(a) of the Fair Housing Act); Iowa Code § 216.8A(3)(b)(1).

10) Respondents acknowledge that owners, developers, and builders of covered multifamily dwellings – ground-floor units in buildings with no elevator or all units in buildings with an elevator, and consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216.8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the “Final Fair Housing Accessibility Guidelines.” 24 C.F.R. Part 100.200 *et seq.*; 56 Fed. Reg. 9,472. In the “Guidelines,” HUD presented the seven specific requirements as:

Requirement 1 – Accessible building entrance on an accessible route.

Requirement 2 – Accessible and usable public and common areas.

Requirement 3 – Usable doors.

Requirement 4 – Accessible route into and through the covered dwelling unit.

Requirement 5 – Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

Requirement 6 – Reinforced walls for grab bars.

Requirement 7 – Usable kitchens and bathrooms.

Voluntary and Full Settlement

11) The parties acknowledge this Predetermination Settlement Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.

12) The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law or regulation. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

13) The parties hereto agree that the aforementioned items of construction not in compliance with any code, regulation or manual was inadvertent and performed without any intent to discriminate against any person under the FHA and/or the Iowa Code.

14) The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of this Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

15) Respondents agree the Commission may review compliance with this Agreement. And as part of such review, Respondents agree the Commission may examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner by the Commission.

16) The parties agree the terms contained in the current agreement do not set a precedent or bind any of the parties to agree to sign any future agreements with either Respondents or any other parties.

Disclosure

17) Because, pursuant to Iowa Code §216.15A(2)(d), the Commission has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa's Public Records Law, Iowa Code Chapter 22. *See* Iowa Code §22.13.

Release

18) Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Fair Housing / Accessible Design and Construction Training

19) Respondents agree Kevin Kidwell will:

(a) Receive training on the accessible design and construction requirements of State and Federal Fair Housing Laws within 180 days of their receipt of a Closing Letter from the Commission. The training will address the Fair Housing accessibility requirements that must be met in order to design and build covered dwellings and common use/public areas that are accessible and usable to individuals with mobility and visual impairments.

(b) Attendance at Design and Construction training session offered during the "Build It Right Iowa" conference held at the ICRC Symposium – to be held on October 27, 2017²¹ – will fulfill the requirement for this term. Otherwise, the training shall be conducted by a qualified person, approved by ICRC or the U.S. Department of Housing and Urban Development.

²¹ <https://icrc.iowa.gov/news/5th-annual-iowa-civil-rights-symposium-and-2nd-build-it-right-iowa-conference> (Last visited on June 1, 2017).

Otherwise, attendance at one of the training sessions offered by Fair Housing Accessibility First will also fulfill the requirement for this term.²²

(c) Owners also agree to send documentation to ICRC, verifying the fair housing / accessible design and construction training has been completed, within ten (10) days of completing the training.

20) Respondents agree Kevin Kidwell, Michael Untrauer, Brian Schumacher will, within 120 days from the date of the Closing Letter from ICRC:

(d) Review and become familiar with the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act, (August 1996, Rev. April 1998), which may be obtained online at <http://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.

(e) Submit separate signed written statements via email from each of the Respondents' representatives named above in paragraph "15)" indicating:

- i. They have reviewed and become familiar with the Fair Housing Act Design Manual.
- ii. They understand what the Seven Main "Design Requirements of the Guidelines" are by listing them in the written statement.

Required Modifications or Retrofits

Because the Designers do not own, have right to possession or otherwise control the property, and have no right or ability to access any part of the property for the purposes of performing any modifications or retrofits, it is agreed to by and between ICRC and Respondents that any modifications or retrofits described herein below will be implemented, performed and completed by Owners (or any agents, employees or independent contractors Owners may use to accomplish the modifications or retrofits), and not by the Designers.

21) Owners agree to make the following modifications or retrofits to the subject property:

Accessible and Usable Public and Common Use Areas – Waste Disposal: Accessible Route

(a) The parties agree the step along the path to the waste dumpsters is an obstruction preventing residents who use wheelchairs from disposing of their trash, in violation of the Manual and Section 402 of the ANSI 2003.

(b) Owners agree they will provide additional waste containers at a safe location away from the usual flow of vehicular traffic in the underground parking area to provide an accessible route for tenants with mobility impairments.

²² See the "Training Calendar" section at the website for Fair Housing Accessibility First for sessions that will also allow for compliance with this term: <http://www.fairhousingfirst.org/training/calendar.html>

Accessible and Usable Public and Common Use Areas – Rent Drop Box

- (a) The parties agree the slit at the rent drop box is unusable for someone in a wheelchair because it exceeds the 48-inch maximum height allowed by the reach parameters of ANSI 2003 with no obstructions.
- (b) Respondents agree they will relocate the rent drop box such that it does not exceed the maximum reach-range height of 48 inches, as required by ANSI 2003.

Usable Doors – Clear Opening Width for Secondary Doorways

- (a) The parties agree interior doorways and sliding glass doorways of Units 4 and 5 have a clear opening width that is narrower than the 31 ³/₄-inch minimum required by ANSI 2003.
- (b) Owners agree they will retrofit the sliding glass doorway in each of the inspected units, as reported in page 4 of the current agreement such as to increase the door-opening width to $\geq 31 \frac{3}{4}$ inches to bring it into compliance with the ICRA and FHA.
- (c) Owners agree to retrofit in the same manner as required in paragraph “(b)” above, all other similarly-situated units within Group 3 – listed on page 3 of the current agreement – which have sliding glass doorways that do not provide a clear opening width of 31 ³/₄ inches or greater.

Accessible Route Into and Throughout the Covered Dwelling Unit – Threshold for Secondary Door

- (a) The parties agree the height onto the finished floor surface of the interior threshold at the sliding glass doorways of Units 2, 3, and 10 exceed the ¹/₄-inch maximum height allowed for interior thresholds without beveling, as established by ANSI 2003.
- (b) Owners agree they will either install new threshold with a height unto the interior finished floor that does not exceed the ¹/₄-inch maximum allowed by ANSI 2003; or install a ramp – with a running slope of $\leq 8.33\%$ and a cross slope of $\leq 2\%$ – at the interior side of the threshold to the sliding glass doorways of Units 2, 3, and 10, as required by ANSI 2003.
- (c) Owners agree to retrofit in the same manner as required in paragraph “(b)” above, all similarly situated units within Groups 1, 2, and 5 – listed on page 3 of the current agreement – that have sliding glass doorways that do not provide a clear opening width of 31 ³/₄ inches or greater.

Accessible Route Into and Throughout the Covered Dwelling Unit – Clear Width of Interior Hallway

- (a) The parties agree the clear width of the route connecting the interior area near the accessible front door with the usable kitchen of Unit 3 is less than the 36-inch minimum allowed for accessible routes that exceed 24 inches in length as required by ANSI 2003.
- (b) Owners agree they will reinstall the ¹/₄-inch plywood at the interior hallway along the route from the accessible front door to the usable kitchen in Unit 3 such that clear width of that route will have a clear width of no less than the 36-inch minimum required by ANSI 2003 along the entire path.

(c) Owners agree to retrofit in the same manner as required in paragraph “(b)” above, the other similarly-situated unit within Group 2 – listed on page 3 of the current agreement – which has an interior hallway from the accessible front door to the usable kitchen that does not provide a clear width of 36 inches or greater.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations – Electrical Outlets

(a) The parties agree the height of the midline of the bottom electrical outlet in each living room, dining room, and bedroom of all inspected units ranges from 13 ½ to 14 ½ inches above the finished floor, which is less than the minimum height of 15 inches, as required by ANSI 2003.

(b) Owners agree they will replace all non-complying dual electrical-outlet receptacles with single electrical-outlet receptacles at the living room, dining room, and bedrooms of every unit such that the midline of single electrical-outlet receptacles is no less than the minimum height of 15 inches, as required by ANSI 2003.

Usable Kitchens –Sinks

(a) The parties agree the distance from the midline of the kitchen sink to the nearest obstruction in Units 2, 3, and 5, as reported on page 4 of the current agreement, was measured at under the 24-inch minimum for bathroom sinks without removable cabinets, as required by ANSI 2003.

(b) Owners will provide photographs of each step, with a narrative description of the entire process, documenting the amount of time required to complete each step, to demonstrate a) the drywall and flooring surfaces under the kitchen sinks and b) proof that the cabinets are easily removable.

Usable Kitchens – Clear Floor Space at Range

(a) The parties agree the distance from the midline of the range to the nearest obstruction in Units 5, 7, and 10 – as reported on pages 4 and 5 of the current agreement – was measured at less than the 24-inch minimum required by the Manual and ANSI 2003.

(b) Owners agree to move the base cabinet adjacent to the range, and then move the range further away from the nearest obstruction to increase the distance from the midline of the range to the nearest obstruction to no less than 24 inches in Units 5, 7, and 10 to meet the 24-inch minimum distance as required in the Manual and ANSI 2003. Owners agree to complete this work by August 15, 2018.

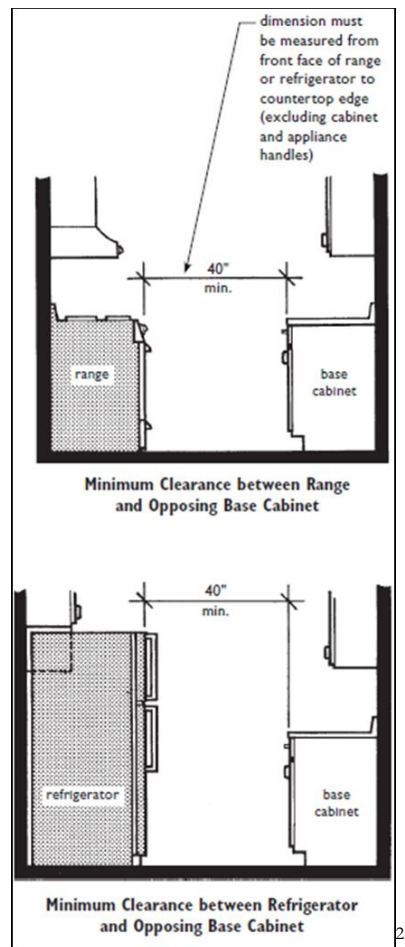
(c) Owners agree to measure the distance between the midline of the range and the nearest obstruction in the other similarly-situated units within Groups 3, 4, and 5 – listed on page 3 of the current agreement. If the measured distance is less than the 24-inch minimum required by

the Manual and ANSI 2003, Owners agree to move the range in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA.

Usable Kitchens – Kitchen Islands

(a) The parties agree the width of the path between the kitchen island and opposing counter is 37 ½ inches in Unit 10, which is less than the 40-inch minimum width required by the Manual and ANSI 2003.

(b) Owners agree to increase the clear width of the path between the kitchen island and opposing features to no less than 40 inches in Unit 10 by sliding the countertop on the kitchen island further away from the opposing features to meet the 40-inch minimum distance, as required in the Manual and ANSI 2003. Owners agree to measure the clear width of the path as indicated in the figure at the top of the next page.



(c) Owners agree to measure the clear width of the path between the kitchen island and opposing features in the manner described in paragraph “(b)” above in the other similarly-situated unit within Group 5 – listed on page 3 of the current agreement. If the clear width of the path is less than the 40-inch minimum required by the Manual and ANSI 2003, Owners

²³ See Manual at page 7.7.

agree to retrofit the noncompliant kitchen in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA.

Usable Bathrooms – Sinks

- (a) The parties agree the distance from the midline of the bathroom sink to the nearest obstruction in Units 2, 4, 5, 7, and 10, as reported on page 5 of the current agreement, was measured at under the 24-inch minimum for bathroom sinks without removable cabinets, as required by the Manual and ANSI 2003.
- (b) Owners will provide photographs of each step, with a narrative description of the entire process, documenting the amount of time required to complete each step, to demonstrate a) the drywall and flooring surfaces under the bathroom sinks and b) proof that the cabinets are easily removable.

Usable bathrooms – Clear Floor Space Outside of Swing of Door

- (a) The parties agree the clear floor space outside of swing of the door in the master bathrooms of Units 2, 4, 5, and 10 is less than 30 by 48 inches, as reported on page 11 of the current agreement, which is less than the minimum required by the Manual and ANSI 2003.
- (b) Owners agree they will remove the door in the master bathrooms of Units 2, 4, 5, and 10 to create the minimum clear floor space dimensions of 30 by 48 inches, as required by the Manual and ANSI 2003. Although removing items, such as doors, that are associated with a deficiency *without* replacing it is not normally an acceptable retrofit, Owners represent these bathrooms are found within, and are accessible only through bedrooms with usable doors, which will provide necessary accessible route and privacy for tenants using those bathrooms.
- (c) Owners agree to measure the clear floor space in the non-master bathrooms of other similarly-situated units within Groups 1, 3, and 5 – listed on page 3 of the current agreement. If the measured distance is less than the 30 by 48-inch minimum required by the Manual and ANSI 2003, Owners agree to remove the bathroom door in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA. Although removing items, such as doors, that are associated with a deficiency *without* replacing it is not normally an acceptable retrofit, Owners represent these bathrooms are found within, and are accessible only through bedrooms with usable doors, which will provide necessary accessible route and privacy for tenants using those bathrooms.

Usable Bathrooms – Towel Bars

- (a) The parties agree the height of the bathroom towel bars above the toilet in all of the inspected units is no less than 50 ¼ inches, which exceeds the 46-inch maximum height allowed by the Manual and ANSI 2003 for features with obstructions that have depths of greater than 10 inches but no greater than 24 inches at covered dwelling units.
- (b) Owners agree they will install an additional towel bars at a height of no greater than 46 inches in the bathrooms of all units, as required by the Manual and ANSI 2003.

Reasonable Modification Requests

- (a) Owners agrees to notify all current tenants with a written notification that provides:

Please notify management if you require a reasonable modification in your unit because of a disability, which will be provided at no additional charge.

- (b) Consistent with the terms of this Agreement, all modifications will be accomplished by August 15, 2018, prior to the date of any new tenancy that will arise after that date. If any unit has remaining any item identified in this Agreement that needs modification, as to those units, for all future and prospective tenants after August 15, 2018, Owners agree to include within all lease agreements the same language that is provided for in paragraph (a).

- (c) Owners agree to provide ICRC the notice listed in paragraph (a), and any written reasonable modification request that comes from a tenant.

- (d) Any written reasonable modification request will be completed within a reasonable period of time upon receipt of the written request.

- (e) Owners agree that all completed reasonable modifications will be made with the intention of those modifications being permanent and not be reverted back to the original condition; however, if a tenant performs some work in the unit without notice or knowledge to the Owners, the any such repair of such condition would be made at a reasonable time after Owners are made aware of such condition

- (f) Owners agree, for any tenant who makes a reasonable modification request that concerns one or more of the above-required modifications or retrofits, they will allow the tenant to make the decision whether the above-required modifications or retrofits are made during their tenancy. Owners also agree those tenants who make that decision will be allowed to remain in their units while the renovations are being completed, so long as their continued stay is safe and does not unduly disrupt the renovation work. If their continued stay is not safe or unduly interferes with renovation work, Owners agree to move the affected tenants to another suitable unit on a temporary basis, until the unit is made safe or the renovation work is completed. Owners agree to pay all costs generated by such move.

Required Timelines for Completion of Modifications or Retrofits

- 22) Owners agree that the above-required modifications or retrofits to the public and common use areas of the subject property (waste dumpster and rent drop box) on or before August 15, 2018. .

- 23) Owners agree to make the above-required modifications or retrofits to each of the units by August 15, 2018.

Mandatory Reporting Requirements

- 24) Owners agree to notify ICRC (Attn: Emigdio López-Sanders; Iowa Civil Rights Commission, 400 East 14th Street, Des Moines, Iowa 50319-0201) when they have completed the

required modifications or retrofits for each of the units and the public and common use areas. Such notification shall be made within 90 days of completion. These required notifications to ICRC after each unit or common area is modified or retrofitted will continue until all required modifications or retrofits have been completed in all 24 units.

25) Owners agree, as the required modifications or retrofits are made to a particular unit, ICRC may then inspect such unit, and report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection, to Respondents.

26) If the inspection indicates outstanding deficiencies, Owners shall correct all such deficiencies within a reasonable period of time as agreed to between Owners and ICRC.

27) The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the subject property as specified in this Agreement, unless Owners have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required modifications or retrofits as specified in this Agreement.

915 Harlocke Land, LLC
RESPONDENT

Date

Kevin Kidwell
RESPONDENT

Date

Michael Untrauer
RESPONDENT

Date

Untrauer Drafting Service, Inc.
RESPONDENT

Date

Brian Schumacher
RESPONDENT

Date

Apex Structural Engineers and Designers
RESPONDENT

Date

Angela Jackson
COMPLAINANT

Date

Kristin H. Johnson, Executive Director
IOWA CIVIL RIGHTS COMMISSION

Date